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EXAMINER				
CYGIEL, GARY W				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,623

Applicant(s)

TSUNODA ET AL.

Examiner

GARY W. CYGIEL

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3.6 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3.6 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 3, 6 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al. (Japanese Patent No. JP411015850A) using both the Derwent and JPO abstracts the teachings in view of Shaheen et al. (US Patent No. 5,893,920) and further in view of Postel et al. (RFC0959, c. 1985), Bennett (Reliability of TCP/IP and the Internet, c. 1996) and McCarty (Linux Command Quick Reference, c. 1999).

Consider **Claims 3 and 6**,

Kuwabara teaches a data storage system comprising a vehicle-mounted terminal mounted on a vehicle, (Derwent, use in a mobile terminal in a vehicle.) and a

Art Unit: 2188

fixed information center for transmitting data to said vehicle-mounted terminal in response to a request from said vehicle-mounted terminal (Derwent, acquires demanded data from data center), in which:

said vehicle-mounted terminal which operates remotely from said fixed information center includes:

terminal communicating means for communicating with said information center (Derwent, data is received through a communication unit.),

temporary cache means for temporarily storing therein said data (Derwent, temporary cache),

permanent cache means for storing therein said data for a predetermined period (Derwent, permanent cache), and

memory selecting means for selectively having said temporary cache means and said permanent cache means store therein said data received by said terminal communicating means (JPO Abstract, HTML tag indicates which cache data is to be stored in.); and

said fixed information center includes:

center communicating means for communicating with said vehicle-mounted terminal,

data sorting means for sorting said data into temporary cache data to be stored in said temporary cache means and permanent cache data to be stored in said permanent cache means (JPO Abstract, HTML tag indicates which cache data is to be stored in.).

Based on the abstracts of Kuwabara, there is no explicit teaching of:

available space obtaining means for obtaining a storage space available in said permanent cache means of said vehicle mounted terminal and determining whether said available storage space is sufficient for the permanent cache data to be stored in said permanent cache means, and

data deletion means for automatically deleting pieces of data stored in said permanent cache means of said vehicle mounted terminal responsive to said permanent cache data means not being sufficient to store said permanent cache data, said pieces of data being deleted automatically without user intervention to increase said available storage space in said permanent cache means of said vehicle mounted terminal to a sufficient amount of available storage space needed to store said transmitted data, wherein said information center checks whether or not said data has been stored.

However, Shaheen does teach available space obtaining means for obtaining a storage space available in said permanent cache means of said vehicle mounted terminal and determining whether said available storage space is sufficient for the permanent cache data to be stored in said permanent cache means (Shaheen:Fig 4B:Item 432), and

data deletion means for automatically deleting pieces of data stored in said permanent cache means of said vehicle mounted terminal responsive to said permanent cache data means not being sufficient to store said permanent cache data, said pieces of data being deleted automatically without user intervention to increase said available storage space in said permanent cache means of said vehicle mounted terminal to a sufficient amount of available

Art Unit: 2188

storage space needed to store said transmitted data, wherein said information center checks whether or not said data has been stored (Shaheen:Fig 4B:Item 438).

Shaheen and Kuwabara are both directed towards methods of managing a cache in a remote terminal and are therefore considered analogous art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to implement the space determining and data deletion methods of Shaheen in the system of Kuwabara because this improves cache effectiveness by intelligently clearing space for files to be cached.

However, the ability to perform checks as to whether or not data has been stored properly is a fundamental ability of almost all computers connected via a network and the examiner is taking official notice of this fact. In support of the official notice, the examiner provides Postel, Bennett and McCarty which all teach about well known elements of networking which are Linux, TCP/IP and FTP. The examiner is merely using these as evidence that the state of the art at the time of the invention clearly made obvious the ability to perform checks on proper storage. The error detection/correction of TCP/IP combined with the teachings regarding the Linux commands make clear that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to not only make sure your file was sent/stored properly (TCP/IP.FTP), but also provide the ability to check the available space (Linux) and delete items (Linux,FTP) at will because this makes the system more robust and reduces

Art Unit: 2188

design time by using notoriously well-known methods in the combined system of Kuwabara and Shaheen.

Consider **Claims 16 and 17**,

The combination of Kuwabara and Shaheen further teaches wherein said available space obtaining means includes means for automatically without user intervention judging whether storage space is available in said permanent cache of said vehicle mounted terminal before said fixed information center transmits said data to said permanent cache of said vehicle mounted terminal (Sheheen:Fig 4B:Item 432 occurs prior to 438;Col 7:Lines 55-65, data is cached from a server. Therefore, the space obtaining means occurs before the caching (retrieval from server).).

Consider **Claims 18 and 19**,

The combination of Kuwabara and Shaheen further teaches wherein said memory selecting means classify said data into two types of data, one being stored in said temporary cache means as being likely to be frequently updated, the other being stored in said permanent cache means as being unlikely to be frequently updated (Kuwabara:JP Abstract, data which is frequently requested is stored in the permanent cache. Data that is frequently requested is unlikely to be frequently updated because then it would be different data and be requested less frequently.).

Response to Arguments

4. Applicant's arguments with respect to claims 3,6 and 16-19 have been considered but are moot in view of the new ground(s) of rejection provided in response to applicants amendment submitted 09 December 2008.

The examiner notes that the applicant's claimed invention appears to be essentially a regular computer with a wireless connection between certain elements. The MPEP discloses (2144.04) that the following modifications of known systems are obvious variations of the prior art.

Making Portable

In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.).

Rearrangement of Parts

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); In re Kuhle, 526 F.2d 553, 188 USPQ7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). However, "The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a

Art Unit: 2188

motivation or reason for the worker in the art, without the benefit of appellant's specification, to make the necessary changes in the reference device." Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

In the current application, the prior art teaches mobile computing devices that communicate with remote servers for the retrieval of data. Given the state of the art at the time of filing (PCT filed 16 October 2003) almost any configuration of known computing devices may be obvious unless there is some new or unexpected result.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2188

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARY W. CYGIEL whose telephone number is (571)270-1170. The examiner can normally be reached on Tuesdays and Thursdays 12:00pm-2:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hyung S. Sough/
Supervisory Patent Examiner, Art Unit 2188
03/11/09

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